



11 JUN 2002

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In re Application of	:
Mortimer M. CIVAN	:
Application No.: 10/009,581	: DECISION ON
PCT No.: PCT/US00/12551	:
Int. Filing Date: 08 May 2000	: PETITION UNDER
Priority Date: 07 May 1999	:
Attorney's Docket No.: 22253-67116	: 37 CFR 1.137(b)
For: METHODS FOR CONTROLLING	:
INTRAOCULAR PRESSURE	:

This is in response to the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 30 April 2002.

### **BACKGROUND**

On 08 May 2000, this international application was filed, claiming an earliest priority date of 07 May 1999.

On 07 December 2000, a Demand electing the United States was filed in this international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 07 November 2001.

On 06 November 2001, applicant filed entry into the national stage in the United States but no executed oath or declaration, or basic national fee was filed at such time.

On 09 April 2002, the United States Designated/Elected Office mailed a Notification of Abandonment indicating that applicant has failed to provide the full U.S. Basic National Fee by 30 months.

On 30 April 2002, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, which was accompanied by, *inter alia*, the basic national fee and an executed declaration.

### DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in § 1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR 1.137(b).

### DECISION

The petition under 37 CFR 1.137(b) is GRANTED.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371 date of this application is 30 April 2002.



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